

REMARKS

This responds to the Office Action mailed on April 19, 2006.

Claims 1-3, 5-11, 23-25, 27-33, 45, 47, 49-57, and 68-76 were pending in the application. Claims 1, 5, 23, 27, 45, 47, 51, and 70 stand rejected under 35 U.S.C. § 102(b). The rejections have been made final. Finality of this Office Action is premature.

The Office has withdrawn at least claims 2-3, 6-22, 24-25, 28-44, 46, 48-50, 52-69, and 71-86 from further consideration. Although the Office Action states twice that Claim 45 has been withdrawn, that claim has also been rejected. Clarification is requested. For the balance of this Amendment, it is assumed that Claim 45 has been rejected, but not withdrawn.

This Amendment amends Claims 1-3, 10-12, 15-17, 20-25, 32-34, 37-39, 43-50, 54, 56-57, 60-62, 66-69, 75-76, 79-81, and 85-86. The amendments are meant to place the claims in condition for allowance and to narrow the issues for appeal.

Regarding Finality of Office Action

The Office Action at hand was made final based on newly-applied art, even though no claims were amended in the Applicants' last Amendment (filed on February 13, 2006). Under present practice, a final rejection is improper "where the examiner introduces a new ground of rejection that is neither necessitated **by applicant's amendment of the claims** nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." MPEP 706.07(a) (emphasis added).

The Applicants' only IDS was filed on November 10, 2003 and the claims were last amended on February 14, 2005. Since that amendment, there have been a Restriction Requirement and now two Office Actions rejecting claims. The last rejections were traversed and overcome without the need to amend claims, and the new rejections of those old claims are based on previously-submitted art. The art references were available and could have been applied in prior office actions, but were not. There was therefore no action by the Applicants that necessitated the new rejection.

Withdrawal of the finality of this office action is respectfully requested.

Regarding Section 102 Rejections

Claims 1, 5, 45, and 51 were rejected under 35 U.S.C. § 102(b) for anticipation by Smittle (U.S. 1,873,495) and Claims 1, 5, 23, 27, 45, 47, 51, and 70 were rejected under 35 U.S.C. § 102(b) for anticipation by Kimura et al. (U.S. 5,215,338). In response certain claims have been amended to more distinctly claim the subject matter of the invention.

As now recited, the claims more clearly define the coupler. First, all claims now expressly recite that the coupler mates leaching chambers. As used in the Specification, the term leaching chamber has a well-understood meaning to those of ordinary skill in the art. Claim 1, for example, now defines the leaching chambers as having “an arch shape with an open bottom at the base of the arch shape and perforated sidewalls on a plurality of corrugations, the leaching chambers having complementary ends for mating like leaching chambers.” Similar limitations have been added to independent claims 23 and 45. The withdrawn claims have likewise been amended with similar limitations. Support for the amendments can be found at least at page 1, lines 11-21 and in FIG. 4.

In comparison, Smittle discusses a flexible pipe joint. An important consideration of Smittle is that the joint remains fluid tight. The claims have been amended to clarify that the chamber recited in the body of the claims is a corrugated leaching chamber, as suggested in the Office Action. In contrast to Smittle, leaching chambers have open bottoms and perforated sidewalls, and therefore are not fluid tight. Not only does Smittle fail to teach the claims leaching chamber coupler, but one of ordinary skill in the art familiar with Smittle would not find Smittle teachings to be relevant to leaching chamber couplers. Consequently, Smittle does not anticipate or suggest the claimed invention.

Kimura discusses a flexible sheath for encasing cables and the like. The body of the claims have been amended, as suggested in the Office Action, to further clarify that a leaching field comprises a plurality of corrugated leaching chambers that are buried in the ground. Kimura does not teach or suggest a leaching field employing buried corrugated leaching chambers have open bottoms and perforated sidewalls, as now claimed.

As such, the amended claims overcome the rejections under Section 102(b).
Reconsideration and allowance is respectfully requested.

Regarding Claim 54

As noted by the Examiner, Claim 54 depended from itself. The claim has been corrected to depend from Claim 45. Acceptance is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to telephone Applicant's attorney 781-239-8131 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3739.

Respectfully submitted,

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By



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